

Remarks

08.16.06 Phone Interview

The applicant thanks the examiner for the phone interview held earlier today between the examiner and the applicant's representative. During the interview, the participants discussed Smith, Jr. USPN 4,713,859, including the valve assembly (18), the drain spigot (22) of the assembly (18), and the substantially normally disposed handle member (98) of the assembly (18). (See, e.g., Smith, Figs. 5 and 6.)

The participants also discussed: the details of an exemplary, commercially-available "spigot" (i.e., valve assembly) described in the application as filed (see page 12, lines 6-8), and shown in a photograph faxed to the examiner prior to the phone interview – a valve assembly that includes a first piece somewhat similar to the Smith valve body (92), and a second piece somewhat similar to the Smith drain spigot (22) (the second piece including a tab, or "handle", for rotating/turning the second piece); how the applicant's element numbered "22" (see, e.g., Fig. 1) is not a "spigot handle" in the sense that Smith's handle member (98) may be thought of as a spigot handle; and that the element (22) actually is an extension arm connected to the "spigot" (i.e., valve assembly), with the extension arm offering several benefits to an operator – for example, the ability to adjust the flow-rate of a liquid (e.g., a wax- or cleaning- solution) from the wheeled receptacle onto a floor, while simultaneously steering/moving the wheeled receptacle across that floor – something that would be extremely difficult to do, if not impossible, using the tab or "handle" that is a part of a conventional spigot/valve assembly.

In addition, the participants discussed amendments to claims 1 and 19 that, if made, would enable these claims to patentably distinguish over the Smith patent. As seen in amended claims 1 and 19 above, the applicant has made these claim amendments.

Allowable Subject Matter

The applicant renews his thanks to the examiner for the examiner's recognition of the allowability of claims 27 and 40.

Section 102 Rejection

The examiner rejected claims 1-5, 19, 44, and 45 based on Smith, Jr. USPN 4,713,859.

The applicant asks the examiner to withdraw the rejection of claims 1-5, 19, and 44 for at least the following reason. Smith, taken either alone or in combination with any of the references of record, fails to disclose or suggest the invention embodied in claims 1 and 19, including, for example, the aspect of these claims that calls for the extension arm. The applicant asks the examiner to withdraw the rejection of claim 45 because this claim has been canceled.

Section 103 Rejections

The examiner rejected claims 6, 7, 22-26, 28-30, 35-39, and 41-43 based on Smith in view of Williams USPN 4,545,531.

The applicant asks the examiner to withdraw this rejection for at least the reasons stated in the 06.27.05 reply. (See the extensive and compelling arguments presented on pp. 15-17 of that reply.) If, after having considered these arguments, the examiner still is not persuaded of the allowability of these claims, then the applicant asks the examiner to provide the applicant with a written rebuttal of each of these arguments,

as called for in the MPEP. (See MPEP 706.07, “Statement of Grounds”, pp. 700-79 and 700-80, 8th Ed. (Aug. 2001), Rev. October 2005.)

The examiner rejected claims 8, 9, 20, and 21 based on Smith in view of Taylor USPN 5,333,353.

The applicant asks the examiner to withdraw this rejection for at least the reasons stated in the 06.27.05 reply. (See the arguments presented on p. 17 of that reply.) If, after having considered these arguments, the examiner still is not persuaded of the allowability of these claims, then the applicant asks the examiner to provide the applicant with a written rebuttal of each of these arguments, as called for in the MPEP. (See MPEP 706.07, “Statement of Grounds”, pp. 700-79 and 700-80.)

The examiner rejected claims 10-15 based on Smith. The applicant asks the examiner to withdraw this rejection for at least the following reason. Claims 10-15 depend, directly or indirectly, from allowable claim 1.

The examiner rejected claims 16-18 based on Smith in view of Biggs et al. USPN 5,920,944. The applicant asks the examiner to withdraw this rejection or at least the following reason. Claims 16-18 depend, indirectly, from allowable claim 1.

The examiner rejected claims 31-34 based on Smith in view of Robinson USPN 6,206,980. The applicant asks the examiner to withdraw this rejection for at least the following reason. Claims 31-34 depend, directly or indirectly, from allowable claim 19.

Application in Condition for Allowance

Given the amendments and remarks presented above, all of the pending claims (claims 1-44) are allowable. Therefore, the applicant asks the examiner to issue a notice of allowability for claims 1-44.

Entry of This Reply

The applicant asks the examiner to enter this reply for at least the following reasons.

The reply adopts the amendment-suggestions developed by the examiner and the applicant's representative during the phone interview earlier today; and the reply places the application in condition for allowance. (See MPEP 714.12, p. 700-236, col. 1, last paragraph, and MPEP 714.13, p. 700-238, col. 1, first paragraph.)

If, for some reason, the examiner believes that not all of the claims are in condition for allowance, then, at the very least, the claims avoid/overcome at least one or more of the rejections in the office action; and therefore, the reply places the case in better condition for appeal. (See MPEP 714.12, p. 700-235, p. 700-236, col. 1, last paragraph, and MPEP 714.13, p. 700-238, col. 1.)

As explained in detail immediately below, the finality of the office action is premature, and therefore, should be withdrawn. And if the examiner withdraws the finality of the office action, then entry of the reply will be in order.

Finality of Office Action is Premature, and Therefore, Should be Withdrawn

The applicant asks the examiner to reconsider and withdraw the finality of the 02.16.06 office action, for at least the following reasons.

The MPEP states that any grounds in a final rejection must “be clearly developed to such an extent that [the] applicant may readily judge the advisability of an appeal ...”. The MPEP further states that a “final rejection ... should include a rebuttal of any arguments raised in the applicant’s reply.” (See MPEP 706.07, “Statement of Grounds”, pp. 700-79 and 700-80.)

However, these requirements were not followed in the 02.16.06 office action, for at least the following reasons.

In the 02.16.06 office action, the examiner clearly developed the grounds for rejecting claims 1, 2, and 19. (See 02.16.06 office action, “Response to Arguments”, pp. 6 and 7.) And the applicant thanks the examiner for these necessary and helpful clarifications. Unfortunately, however, the grounds for rejecting many other claims – including, for example, claims 44, 35, 26 and 39, 28 and 41, 29 and 42, 30 and 43, 8, 9, 20, and 21 – were not clearly developed. In further detail, in the 06.27.05 reply to the 11.16.04 office action, the applicant had made several extensive and compelling arguments regarding the claims identified immediately above (in addition to amending claims 1, 3, and 19). But the 02.16.06 office action was silent, in response to these important and compelling arguments. There was no rebuttal, no response, no clarification. Instead, the office action stated “[a]ny remaining arguments have been fully addressed in the above rejection.” (See 02.16.06 office action, “Response to Arguments”, p. 7.) However, this is not correct. In fact, the rejection(s) did not address, fully or otherwise, the applicant’s arguments regarding these claims. And therefore, for the many claims associated with these arguments, the applicant is unable to readily judge

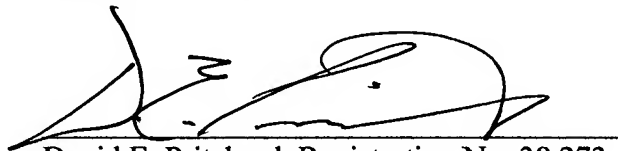
the advisability of an appeal – contrary to the goals and requirements of the MPEP, as stated above.

The information presented above (regarding a lack of clear development of various grounds of rejection, and an absence of any rebuttal of several of the applicant's arguments) provides a sufficient basis for properly withdrawing the finality of the office action. However, for the sake of completeness, the applicant also would like to note that the examiner's new ground(s) of rejection were neither necessitated by the applicant's amendments in the 06.27.05 reply, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c). This fact provides yet another basis for proper withdrawal of the finality of the office action. (See MPEP 706.07(a), p. 700-80, beginning of second paragraph.)

Conclusion

If, based on the information presented above, the examiner has any questions or ideas that he would like to discuss with the applicant, the applicant asks the examiner to call the applicant's representative, so that any such questions or ideas may be addressed as swiftly as possible.

Respectfully submitted,



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